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Tr.CMP(MD)No.18 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.04.2025

Pronounced on : 19.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Tr.CMP(MD)No.18 of 2025

and

C.M.P(MD)No.444 of 2025

Sowbia

... Petitioner

Vs.

Dhinesh

... Respondent

PRAYER : Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw and transfer the H.M.O.P.No.638 of 2024 on the file of the Family Court, Trichy to be heard and tried along with H.M.O.P.No.253 of 2024 pending on the file of the Sub Court, Uthamapalayam for disposal of the same on merits and in accordance with law.

For Petitioner : Mr.M.Jerin Mathew

For Respondent : Mr.R.Gandhi
Senior Counsel
for Gandhi Associates



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ORDER

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This Transfer Civil Miscellaneous Petition is filed seeking for an order to withdraw the H.M.O.P.No.638 of 2024 on the file of the Family Court, Trichy and to transfer the same to the file of the Sub Court, Uthamapalayam to be tried along with H.M.O.P.No.253 of 2024.

2. The petitioner is the wife of the respondent. The marriage between the petitioner and the respondent was solemnized on 17.01.2022 by following Hindu rites and customs. Out of wedlock, they are blessed with a male child, who was born on 29.12.2022. Due to misunderstanding, the petitioner and the respondent are living separately. The respondent has filed the petition in HMOP.No.638 of 2024 before the Family Court, Trichy, against the petitioner for divorce. The petitioner has filed the petition in HMOP.No.253 of 2024 before the Sub Court, Uthamapalayam against the respondent for restitution of conjugal rights. Hence, the petition is filed.

3. The learned counsel for the petitioner has submitted that the petitioner is living with her male child under the care and custody of her parents at Chinnamanur of Theni District. Her parents are aged. The petitioner finds it very difficult to travel 410 km to attend the Court at Trichy. The petitioner has no sufficient means and the



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respondent has not maintained the petitioner. So, the petitioner has also filed D.V.No.52 of 2024 before the Judicial Magistrate Court, Uthamapalayam. She also filed H.M.O.P.No.253 of 2024 for restitution of conjugal rights against the petitioner and the same is pending before the Sub Court, Uthamapalayam. The respondent is earning person and he can be able to travel. Hence, the respondent would not be prejudiced if the petition for divorce filed by him is transferred. So, the petition may be allowed.

4. Per contra, the learned counsel for the respondent filed a counter and objected the petition. The learned counsel further submitted that the petitioner's father is working as Sub Inspector of Police in Chinnamanur Police Station. The petitioner's father and her paternal uncle assaulted the respondent and so he took treatment at Cumbum Governmnt Hospital. Moreover, they obtained signature from the respondent and his father in several blank papers under threat, stating that if the respondent would not heed their words, they would register FIR against the respondent. The respondent has filed AR copy and discharge summary to show the assault against him. Since the respondent apprehends threat at the petitioner's station, the case may be transferred to some other Court.

5. In reply, the learned counsel for the petitioner would submit that the respondent has not filed any copy of complaint or FIR or at least CSR. The DV Case



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is pending before the Judicial Magistrate Court, Uthamapalayam, hence the respondent has to appear before that Court.

6. The arguments put forth by both sides considered and the records perused. The petitioner and the respondent are spouses. Due to misunderstanding, they are living separately. In such circumstances, the respondent filed the petition in H.M.O.P.No.638 of 2024 for divorce and the same is pending before the Family Court, Trichy. The petitioner has filed H.M.O.P.No.253 of 2024 before the Sub Court, Uthamapalayam, against the respondent for restitution of conjugal rights and also filed DV.No.52 of 2024 before the Judicial Magistrate Court, Uthamapalayam. The fact remains, the petitioner is living with her parents in her native place along with her male child. So, she states inconvenient to attend the Court at Trichy. These facts are not denied by the respondent. The respondent is also earning member. During the course of arguments, the respondent submits that the case may be transferred to nearby station as he apprehends threat and to treat this case as exceptional case. The petitioner has not filed any material to show the threat. If any incident really happened, he might have lodged a complaint even before higher police officials, as rightly argued by the petitioner's side. On perusal of AR copy, it is clear that he has not mentioned as if he was attacked by his father-in-law or other in-laws. He simply stated as 'by known persons'. It is well settled proposition of law by the Hon'ble Supreme Court in catena cases that whenever the transfer petition is



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filed in matrimonial disputes, the convenience of the wife should be predominantly looked into and the wife's convenience shall be given preference. The transfer is sought to the Sub Court and therefore, his appearance need not necessary for each and every hearing like Family Court, except on material hearing or on direction. Therefore, taking note of the settled position of the convenience of the wife in matrimonial cases and also considering the submissions of both sides, this Court is inclined to allow this petition.

7. In the result, this Transfer Civil Miscellaneous Petition is allowed. The petition in H.M.O.P.No.638 of 2024 on the file of the Family Court, Trichy, is hereby withdrawn and transferred to the file of the Sub Court, Uthamapalayam to be tried along with H.M.O.P.No.253 of 2024 and for disposal in accordance with law. The learned Judge, Family Court, Trichy, is directed to transmit the entire records pertaining to the case in H.M.O.P.No.638 of 2024 to the transferee Court, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

19.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Family Court, Trichy.
- 2.The Sub Court, Uthamapalayam.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Tr.CMP(MD)No.18 of 2025
and
C.M.P(MD)No.444 of 2025

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